



Case Path Pilot Practice Direction (May 1, 2026)

Background

On May 6, 2022, the Tribunal launched a pilot project regarding the process for considering complaints under s. 27 of the *Human Rights Code* [**Case Path Pilot**]. Section 27(1) of the *Code* gives the Tribunal discretion to dismiss complaints without a hearing to conserve resources and promote timely resolution of complaints. This section plays a “gatekeeping function” for the Tribunal to safeguard against the time and expense of hearings where one is not warranted. In the context of significantly increased case volumes, the practice of allowing respondents to elect making a s. 27(1) dismissal application led to the Tribunal dedicating disproportionate resources to these applications and contributed to delay.

Under the Case Path Pilot, the Tribunal more actively exercises its discretion to invite submissions under s. 27(1) to promote timely and fair resolution of complaints.

Application of the Case Path Pilot

At the start of the pilot project, the Case Path Pilot applied to all cases where the Tribunal did not automatically set dates for an application to dismiss the complaint, including those that were captured by the Practice Direction of November 8, 2021 *Emergency Pause on New Applications to Dismiss* [**Emergency Pause**].

The Practice Direction replaced the Emergency Pause and set out an interim process under s. 27(1) of the *Code*. It also replaced the practice direction *Application to Dismiss a Complaint Against Individual Respondents* issued November 7, 2019. The Case Path Pilot does not limit the Tribunal’s discretion under ss. 27(1) or 27.2(3) or otherwise to manage a complaint proceeding.

Effective May 1, 2026, the Tribunal amended [rule 19](#) which sets the procedures for matters under s. 27 of the *Code*.

This Practice Direction continues to apply to complaints where, before May 1, 2026, the Tribunal notified the parties of their disclosure obligations and set a deadline for next steps [**Case Path Pilot complaints**].

Process

After the deadline for document disclosure under [rule 20](#), the Tribunal will review the complaint and response(s), including amendments, to determine the process or “path”. There are two “paths” in the Case Path Pilot. The first is the default path, proceeding directly to hearing. The second is submissions under s. 27(1). The paths will operate as follows:

Hearing Path

When a complaint is proceeding directly to a hearing, the Tribunal will notify the parties by letter. The Tribunal will schedule a case conference with the parties to set down hearing dates and discuss next steps.

Submissions Path

When the Tribunal assesses that submissions under s. 27(1) of the *Code* may further the just and timely resolution of the complaint, it will provide instructions to the parties, including a deadline for submissions. Examples of when such circumstances may arise include:

- The Tribunal may not have jurisdiction over the complaint: s. 27(1)(a).
- The complaint may not set out an arguable contravention of the *Code*: s. 27(1)(b).
- The factual disputes indicate that the matter may be resolved in a faster and fairer way through written submissions than an oral hearing: s. 27(1)(c).

For example, it appears that factual disputes could be determined based on documents and would not need the cross-examination of witnesses at a hearing.

- The complaint names individual respondents whose participation may not further the purposes of the *Code*: s. 27(1)(d)(ii).
- The complaint may have been resolved in another proceeding or in a settlement agreement: s. 27(1)(d)(ii) and (f).
- All or part of the allegations in the complaint are filed outside the time limit: s. 27(1)(g).

The Tribunal may determine more than one issue under s. 27 applies.

Request to File Dismissal Application

Where a case has been assigned to the hearing path or if a respondent wants to make submissions under s. 27(1) not set out in the Tribunal's instructions for the submissions path, a respondent may file a [Form 7.5 – Request to File Dismissal Application](#) based on new information or circumstances. Any request must be filed within 14 days of:

- the letter advising that the complaint will be scheduled for a hearing or identifying the scope of the dismissal application in the submissions path, or
- the date on which new information or circumstances that form the basis of an application come to the respondent's attention.

Under the Case Path Pilot, the Tribunal will have already reviewed the complaint and response(s). New information must not include information already set out in the complaint or response(s) to complaint.

Application of Rule 19 – Application to Dismiss

Rules 19(1)-(3) and (6)-(7) of the [Tribunal's Rules of Practice and Procedure made January 15, 2016 \(amended on May 1, 2026\)](#) apply to Case Path Pilot complaints.

Effective Period of Practice Direction

This Practice Direction was put into effect on May 6, 2022 and was extended to May 1, 2026. This Practice Direction will continue to apply until the Tribunal has determined the case path for the Case Path Pilot complaints.

Emily Ohler, K.C.
Chair
May 1, 2026